

**LAUFMAN & GERHARDSTEIN**

ATTORNEYS AT LAW

1409 ENQUIRER BUILDING  
617 VINE STREET  
CINCINNATI, OHIO 45202  
(513) 621-9100  
FAX (513) 345-5543

ROBERT E. LAUFMAN  
ALPHONSE A. GERHARDSTEIN  
JENNIFER L. BRANCH  
PAUL M. LAUFMAN

November 13, 2003

Marie Moraleja Hoover  
R. Tracy Hoover  
The Hoover Law Group  
621 7<sup>th</sup> Street  
Portsmouth, OH 45662

Re: *Riggins v. Hunt, et al.*

Dear Counsel:

Pursuant to Rule 11 of the Federal Rule of Civil Procedure, we are writing to inquire whether you and/or Defendant Forrest Hunt violated Fed. R. Civ. Proc. 11(b)(1) on March 25, 2003, when you filed a motion less than a week before the March 31, 2003 jury trial date seeking a continuance "due to the fact that Mr. Hunt is a member of the armed services of the United States; and his unit has been activated. Mr. Hunt has conveyed to counsel that he is in Panama." (Doc. 63).

On November 12, 2003 you produced exhibits including a "Recommendation for Award" from the Ohio Army National Guard. This document indicates that Mr. Hunt reported April 4, 2003 through April 20, 2003, to Chillicothe, Ohio for his "annual training period." It further states that he took a week of vacation from his civilian employer to report for duty in Chillicothe a week early. It is unclear whether Mr. Hunt took the week of April 4 as vacation, or the week before. Either way, it appears that he was not "activated." The use of the phrase "activated" within a week of the Iraqi war was very misleading if indeed Mr. Hunt was just attending his annual guard training. Furthermore, the exhibit you provided appears to indicate the training was in Chillicothe and therefore Mr. Hunt was not in Panama. Additionally, contrary to the representations in your motion, his training did not start until after your motion was filed. Most importantly, the training, which started April 4, did not conflict with the four day trial set for March 31, 2003 through April 3, 2003.



If any one of the representations you made in your motion was untrue and was made for the purpose of delaying the trial date, then you may have violated Rule 11. However, before we file a Rule 11 motion, we wanted to put you on notice that we will file for sanctions for the cost of preparing for the March trial. We want to give you a reasonable opportunity to respond. If there is an explanation for this apparent conflict between your motion for a continuance and the exhibit you produced, please explain before trial starts Monday, November 17, 2003.

Sincerely,



Alphonse A. Gerhardstein  
Jennifer L. Branch